

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*In re Dealer Management Systems Antitrust
Litigation*, MDL 2817

No. 1:18-CV-00864

This document relates to:

Hon. Robert M. Dow, Jr.

*Motor Vehicle Software Corp. v. CDK Global, LLC,
et al., Case No. 1:18-cv-00865 (N.D. Ill.)*

Magistrate Judge Jeffrey T. Gilbert

NOTICE OF SUPPLEMENTAL AUTHORITY

On October 16, 2019, Defendant The Reynolds and Reynolds Company (“Reynolds”) filed a Motion to Bar Plaintiff Motor Vehicle Software Corp. (“MVSC”) from pursuing claims based on harm allegedly suffered in the Virginia or Wisconsin EVR markets as described in the August 26, 2019 expert report of Gordon Klein. Dkt. 787 (“Motion”). The Motion is fully briefed and awaiting resolution. *See* Dkt. 789 (Memorandum); Dkt 818 (MVSC Response); Dkt. 833 (Reply); Dkt. 868 (Supplement regarding relevant deposition testimony and reply report). Reynolds writes to inform the Court of a recent district court decision that bears on the issues discussed in the Motion. *See In re Packaged Seafood Prods. Antitrust Litig.*, No. 15-md-2670-JLS, Dkt. 2323 (S.D. Cal. Aug. 6, 2020) (“Order”).

The *Packaged Seafood* Court struck portions of the report of the plaintiffs’ damages expert because the expert opined on damages that were “outside the scope of the Complaint.” Order at 3-4. In addition, the Court rejected the argument that the complaint did not have to be amended because the expert’s analysis was “consistent” with the plaintiffs’ theory of the case. Order at 5. Finally, the Court held that “[r]egardless of what Defendants learned from Plaintiffs’ disclosures and testimony, discovery ‘cannot . . . serve as a substitute for adequate pleading.’” Order at 6.

A copy of the *Packaged Seafood* Order is attached hereto as Exhibit A.

Dated: August 12, 2020

Respectfully submitted,

/s/ Leo D. Caseria

Aundrea K. Gulley
Brian T. Ross
Brice A. Wilkinson
Ross M. MacDonald
GIBBS & BRUNS LLP
1100 Louisiana Street
Suite 5300
Houston, TX 77002
(713) 751-5258
agulley@gibbsbruns.com
bross@gibbsbruns.com
bwilkinson@gibbsbruns.com
rmacdonald@gibbsbruns.com

Michael P.A. Cohen
Leo D. Caseria
SHEPPARD MULLIN RICHTER & HAMPTON,
LLP
2099 Pennsylvania Avenue NW, Suite 100
Washington, DC 20006
(202) 747-1900
mcohen@sheppardmullin.com
lcaseria@sheppardmullin.com

*Counsel for Defendant
The Reynolds and Reynolds Company*

CERTIFICATE OF SERVICE

I, Leo D. Caseria, an attorney, hereby certify that on August 12, 2020, I caused a true and correct copy of the foregoing **NOTICE OF SUPPLEMENTAL AUTHORITY** to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

/s/ Leo D. Caseria

Leo D. Caseria

SHEPPARD MULLIN RICHTER & HAMPTON,
LLP

2099 Pennsylvania Avenue NW, Suite 100

Washington, DC 20006

(202) 747-1900

lcaseria@sheppardmullin.com